

REMARKS

Requirement for Restriction

On page 2 of the Office Action (Paper No. 20080104), the Examiner issued a four-way restriction requirement pursuant to 35 USC § 121 and 372. The restriction divided the claims into the following allegedly distinct inventions:

Group I drawn to “to a compound of formula I where X=an imino group, a method for protecting human skin and hair, and a composition comprising one or more compounds of formula I” containing claims 1-7 and 13-21;

Group II drawn to “a compound of formula I where X= an oxygen, a method for protecting human skin and hair, and a composition comprising one or more compounds of formula I” containing claims 1-7 and 13-21;

Group III drawn to “a polysiloxane of formula II, where X=an imino group” containing claims 8-11; and

Group IV drawn to “a polysiloxane of formula II, where X= an oxygen” containing claims 8-11. (*Id.*)

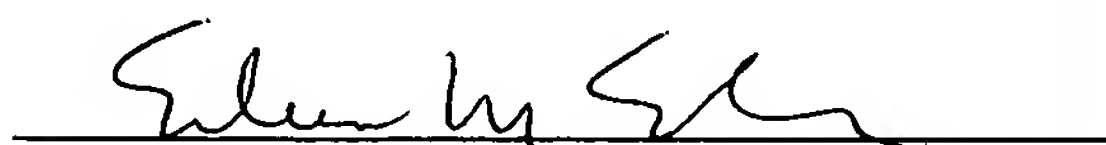
In issuing the restriction requirement, the Examiner asserted that the inventions “do not relate to a single general inventive concept under PCT Rule 13.1 because...they lack the same or corresponding special technical features...” (*Id.* at 3).

In accordance with restriction practice, the subject matter of claims 1-7 and 13-21 (Group II) drawn to “a compound of formula I where X= an oxygen, a method for protecting human skin and hair, and a composition comprising one or more compounds of formula I” is hereby elected for prosecution with traverse. (*Id.* at 2).

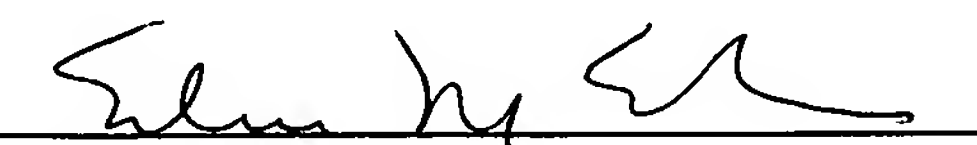
The restriction requirement cannot stand because the Examiner has not demonstrated that a search pertaining to all the claims would be a serious burden. MPEP § 803 (at pp. 800-3 to 800-4) states that in order for a proper restriction requirement to be made, an Examiner must show that the inventions are independent or distinct and that there would be a serious burden on the Examiner if the restriction was not required. A search encompassing the benzoxazoles and benzodiazoles of any of the restricted groups would likely be coextensive with that of any other group. Here, we respectfully submit that a search of claims 1-7 and 13-21 (alleged Group II) would necessarily require a search of the same areas as a search of alleged Groups I, III and IV. Accordingly, there would be no serious burden on the Examiner to examine all pending claims. For this reason, reconsideration and withdrawal of the requirement is respectfully requested.

Early and favorable action is respectfully requested. If the Examiner has any questions regarding this paper, please contact the undersigned attorney.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Amendment, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 11, 2008.


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Respectfully submitted,

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